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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,215	10/13/2004	Sebastiaan Antonius Fransiscus Arnoldus Van De Heuvel	NL 020301	2147

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EXAMINER	
OBEID, MAMON A	
ART UNIT	**PAPER NUMBER**
3621	
MAIL DATE	**DELIVERY MODE**
10/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/511,215	VAN DE HEUVEL ET AL.	
	Examiner	Art Unit	
	Mamon Obeid	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This is in reply to application filed on 13 October 2004.

2. Claims 1- 9 are currently pending and have been examined.

Priority

3. Applicant's claim for the benefit of a foreign Application (EPO 02076521.0), filed on 18 April 2002 is acknowledged.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. The claimed invention in independent claim 9 is directed to non-statutory subject matter. The claim fail to place the invention squarely within one statutory class of invention. The claim claims a "*sample content item" which* does not fall under the four statutory classes.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the term "same *particular security mechanism*" which is not defined by the claims, the specification does not lexicographically define the term, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For examination purposes, the examiner will interpret the term "same *particular security mechanism*" as any security mechanism including encryption.

8. Claim 1 recites the terms "a *particular formatting scheme*" and "*same formatting scheme"* which are not defined by the claims, the specification does not lexicographically define the term, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For examination purposes, the examiner will interpret both terms as any general content format.

9. The term "*particular*" is used throughout the claims. The term "*particular*" is not further defined in the claims and therefore renders the associated claims vague and indefinite. Appropriate clarification is required.

10. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the step when one or more rights was/were not obtained. For example, what the status of the content is going to be when no rights were acquired.

11. The term " *content resolution protocol* " in claims 8 is a relative term, which renders the claim indefinite. The term " *content resolution protocol* " is not defined by the claim, the specification does not lexicographically define the term, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. If Applicant believes that the term "*content resolution protocol*" is old and well know in the art, Applicant should expressly state on the record that the claim term is old and well known in the art and provide appropriate evidence in support thereof (e.g. a U.S. Patent).

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1- 3-& 5-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Peterka et al. (US Patent Application Publication No. US 2002/0170053 A1).

14. ***Examiner's Note***: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

15. **As per claim 1:** Peterka discloses *providing unconditional access to a sample content item protected by the same particular security mechanism* (see at least paragraph [0086] and Figure 4).

16. **As per claim 2:** Peterka discloses *the protected content item is formatted using a particular formatting scheme, and the sample content item is formatted using the same formatting scheme* (one content file that consists of two portions, encrypted and unencrypted and therefore the format is inherently the same, see at least paragraph [0084] and Figure 3).

17. **As per claim 3:** Peterka discloses *the access to the content item is conditional upon acquisition of one or more rights* (see at least paragraph [0090]).

18. **As per claim 5:** Peterka discloses *the sample content item comprises an information element necessary for the acquisition of said one or more rights* (after watching/listening to the preview content, user makes a decision whether to purchase the remainder of the content, see at least paragraph [0137]).

19. **As per claim 6:** Peterka discloses *the content item is protected by an encryption scheme using a particular key, and the sample content item is protected by the same encryption scheme using the same particular key* (see at least paragraph [0086] and Figure 4).

20. **As per claim 7:** Peterka discloses *the sample content item comprises an advertisement or trailer for the content item* (see at least paragraph [0055]).

21. **As per claim 8:** Peterka discloses *access to the content item and the sample content item is provided using a content resolution protocol wherein the content item and the sample content item have a common content resolution identifier* (see at least paragraph [0146]).

22. **As per claim 9:** Peterka discloses the following limitations:

- *a sample content item associated with a content item protected by a particular security mechanism* (see at least paragraph [0086] and Figure 4).
- *access to the content item being conditional upon acquisition of one or more rights* (see at least paragraph [0090]).
- *the sample content item being protected by the same particular security mechanism, and comprising an information element necessary for the acquisition of said one or more rights* (after watching/listening to the preview content, user makes a decision whether to purchase the remainder of the content, see at least paragraph [0137]).

Claim Rejections - 35 USC § 103

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterka in view of Nishimoto et al. (US Application Publication No. 2002/0000156 A1).

25. **As per claim 4:** Peterka discloses the limitations of claim 3 as shown above. Peterka does not disclose *the acquisition of said one or more rights by a client is refused until the sample content item has been accessed by said client.* However, Nishimoto discloses a sample content that is intended for listening and viewing test; only when the user is satisfied with the sample, he/she can order/download the regular content (see at least paragraph [0034]).
It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Peterka teachings to Include the step of testing the sample content first before allowing the user/client to purchase the original/regular content item to prevent the user/client from mistakenly ordering what would have been an unsatisfactory content due to application/player compatibility or due to the regular/original content original quality (see in

Nishimoto at least paragraph [0034]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mamon Obeid whose telephone number is (571) 270-1813. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

9/27/07

ANDREW J. FISCHER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Mamon Obeid
Examiner
Art Unit 3621
Date:
Signature: